

**COLUMBUS COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

**ARTICLE I
TITLE**

This program, adopted by the Board of Commissioners of Columbus County, North Carolina, shall be known as the **Columbus County Voluntary Agricultural Districts Ordinance**.

**ARTICLE II
AUTHORITY**

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes 106-735 through 106-743 hereby attached and incorporated by reference as Exhibit A.

**ARTICLE III
PURPOSE**

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

**ARTICLE IV
JURISDICTION**

There will be seven (7) areas from which Voluntary Agricultural District Board members will be selected. Each Voluntary Agricultural District Board member will be selected by the Columbus County Commissioner representing the respective District at the time of selection of the Voluntary Agricultural District Board. The selection areas will cover all unincorporated land within Columbus County.

**ARTICLE V
DEFINITIONS**

Agricultural Board: The Columbus County Voluntary Agricultural District Board.

Board of Commissioners: The Board of Commissioners of Columbus County, North Carolina.

Chairman: Chairman of the Columbus County Voluntary Agricultural District Board.

District: A Voluntary Agricultural District established under the terms and conditions of this program by the Board of Commissioners.

Technical Review Committee: A five (5) member committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the

**ARTICLE VI
QUALIFICATIONS AND CERTIFICATION OF FARMLAND**

Section 600. Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property; *AND*
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G.S. 105-277.3 hereby attached and incorporated by reference as Exhibit B ; *AND*
- (3) The property shall be certified by USDA Farm Service Agency and reviewed by the USDA Natural Resources Conservation Service, the Columbus County Cooperative Extension Service, and the Columbus Soil and Water Conservation District as being a farm on which at least two-thirds of the land is composed of soils that:
 - (a) have good farming qualities.
 - (b) are favorable for crops, livestock, ornamentals, Christmas trees or timber common to Columbus County. *AND*
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the USDA Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; *AND*
- (5) The property is the subject of a conservation agreement, as defined in G.S. 121-35, hereby attached and incorporated by reference as Exhibit C, between the County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII of this Ordinance.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in this farmland preservation program ordinance shall submit written evidence that the property conforms to the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Voluntary Agricultural District Board or the designated staff person on forms provided by the Board. The certification shall be submitted at the same time the owner applies for inclusion in a district.

**ARTICLE VII
APPLICATION, APPROVAL AND APPEAL PROCEDURES
FOR VOLUNTARY AGRICULTURAL DISTRICTS**

Section 700. Creation of Voluntary Agricultural Districts

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts, which shall meet the following standards:

- (1) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Voluntary Agricultural District Board; *AND*
- (2) For each district created under the terms of this program, one of the existing Voluntary Agricultural District Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Voluntary Agricultural District Board or to a designated staff person of the Columbus Soil and Water Conservation District, 45 Government Complex Road, Suite B, Whiteville, NC 28472. The application shall be on forms provided and approved by the Columbus County Voluntary Agricultural District Board.

Section 702. Membership Fee for Participate

A one time membership fee as approved by the Voluntary Agricultural District Board will be due from each participate and shall be submitted with the application. This membership/application fee provides the landowner with one (1) Voluntary Agricultural District Membership sign to be placed on the property. Additional signs may be purchased through the Voluntary Agricultural District. The fee for said signs will be set by the Voluntary Agricultural District Board.

Section 703. Approval Process

Upon review by the technical review committee of the written certification and application submitted by the property owner, the Voluntary Agricultural District Board shall meet within 180 calendar days to review or approve said application. The Voluntary Agricultural District Board or representative agent thereof shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Notification of new Agricultural Districts shall be sent to the County Tax Assessor quarterly.

Section 704. Appeal

If an application is denied by the Voluntary Agricultural District Board, the petitioner has thirty (30) calendar days to record an appeal of the decision to the Clerk to the Board of the Columbus County Board of Commissioners.

Such appeal shall be presented in writing signed by the applicant or his or her Agent and presented to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final. If an application is disapproved by the Voluntary Agricultural District Board and the Board of Commissioners, the membership/application fee will be returned to the said applicant.

**ARTICLE VIII
REVOCATION OF CONSERVATION AGREEMENTS**

By written notice to the Voluntary Agricultural District Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the Voluntary Agricultural District Board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a Voluntary Agricultural District and the benefits thereof.

Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a Voluntary Agricultural District shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.6 hereby attached and incorporated by reference as Exhibit B.

If a Voluntary Agricultural District is removed or demised, all signage shall be returned to the Voluntary Agricultural District Board. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

**ARTICLE IX
AGRICULTURAL BOARD**

Section 900. Creation

In accordance with N.C.G.S. 106-739, hereby attached and incorporated by reference as Exhibit A, the Board of Commissioners hereby establishes a Voluntary Agricultural District Board to implement the provisions of this program ordinance.

Section 901. Appointments and Memberships

The Voluntary Agricultural District Board shall consist of only seven (7) members appointed by the Columbus County Board of Commissioners upon recommendation and nomination by the County Commissioner representing said District.

- (1) Requirements. Each Voluntary Agricultural District Board member shall be a resident of Columbus County. Each Voluntary Agricultural District Board member shall be actively engaged in farming or own qualifying farmland in Columbus County.
- (2) Membership
 - (a) The Voluntary Agricultural District Board shall consist of no less than seven (7) members which will be appointed by the Columbus County Board of Commissioners. One (1) shall be appointed from each of the seven (7) districts served by each County Commissioner at the time of appointment.
 - (b) In addition, there will be a five (5) member non-voting advisory Technical Review Committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the USDA Farm Service Agency Board.

- (c) The seven (7) members may be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Columbus County Cooperative Extension Service, the Columbus Soil and Water Conservation District, the USDA Farm Service Agency Committee, the Columbus County Planning Department, Columbus County Farm Bureau, or other farm related farming organizations, with an effort to have the broadest geographical and commodity representation possible. Said submitted names are advisory only to the Board of Commissioners.
- 3) Tenure. The initial seven (7) members of the Voluntary Agricultural District Board shall consist of two (2) members appointed for a term of one year, two (2) members appointed for a term of two years, and three (3) members appointed for a term of three years. Thereafter, all appointments to the Voluntary Agricultural District Board will be for a period of three years with reappointment permitted for no more than two consecutive terms. The terms for the appointment of the initial Voluntary Agricultural District Board will be determined by lottery procedure determined by this ordinance.
 - (4) Vacancies. Any vacancy on the Voluntary Agricultural District Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.
 - (5) Removal for Cause. Any member of the Voluntary Agricultural District Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing by the Board of Commissioners.
 - (6) Funding. Appropriations for Performance of Duties. Funds may be appropriated by the Board of Commissioners to the Voluntary Agricultural District Board to perform its duties. As needed, a budget request will be presented to the County Finance Office annually following procedures as determined by the Board of Commissioners.

Section 902. Procedures

The Voluntary Agricultural District Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

- (1) Chairperson: The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairman and vice-chairman shall be subject to re-election. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.
- (2) Jurisdiction and Procedures: Supplementary Rules: The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (3) Board Year: The Board shall use the County fiscal year (July 1 through June 30) as

its meeting year.

- (4) **Meetings;** Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least semi-annually. A quorum shall consist of a majority of the members of the Board.
- (5) **Voting;** The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article.
- (6) **Records;** The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board and shall be a public record.
- (7) **Administrative Services;** The Cooperative Extension Service Office shall serve the Voluntary Agricultural District Board for recordkeeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.
- (8) **Rules of Procedure;** Other than as specifically differentiated or described by this, or subsequent, Ordinance, the Voluntary Agricultural District Board shall abide procedurally by Suggested Rules of Procedure for the Board of County Commissioners, Third Edition by Joseph S. Ferrell, North Carolina Institute of Government.

Section 903. Duties

The Voluntary Agricultural District Board shall:

- (1) Review and approve applications for qualified farmland and Voluntary Agricultural Districts; *AND*
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts; *AND*
- (3) Perform other related tasks or duties assigned by the Board of Commissioners; *AND*
- (4) Review and make recommendations to the Columbus County Board of Commissioners concerning proposed amendments to this ordinance; *AND*
- (5) Develop a county-wide farmland protection plan as defined in N.C.G.S. 106-744(e) (1) hereby attached and incorporated by reference as Exhibit D, for presentation to the Board of Commissioners; *AND*
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

**ARTICLE X
LAND USE INCENTIVES TO VOLUNTARY
AGRICULTURAL DISTRICT FORMATION**

Section 1000. Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between Voluntary Agricultural District participants and non-farm landowners in proximity to districts. **Nothing in this document should be viewed as a change in the status of the numerous non-farm landowners currently located throughout the county. Those landowners retain the same rights and standing held prior to the enactment of a Voluntary Agricultural District.**

Section 1001. Public Notification

- (1) Upon certification of qualifying farmland and designation of real property as a Voluntary Agricultural District, the title to that qualifying farmland and real property, which is contained in the Columbus County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract that such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District. All notice procedures shall be governed by North Carolina law.
- (2) The Voluntary Agricultural District Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated Voluntary Agricultural District with a goal of informing all current and potential residents and property owners in and adjacent to a Voluntary Agricultural District that farming and agricultural activities may take place in this district any time during the day or night.
 - (a) Members of the Voluntary Agricultural District are encouraged to place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining landowners of the presence of the farm property.
 - (b) Information identifying approved districts shall be provided to the Columbus County Register of Deeds Office, the Columbus Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Columbus County Planning Department, and the Columbus County Tax Department. Notice information for each department listed in this section shall be found at the;
Columbus Soil and Water Conservation District
45 Government Complex Road, Suite B
Whiteville, NC 28472
Phone: 910-642-2196 Ext. 3
Fax: 910-642-6766
 - (c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Columbus County Tax Department in accordance with North Carolina law:

**NOTICE TO REAL ESTATE PURCHASERS IN COLUMBUS COUNTY
OF VOLUNTARY AGRICULTURAL DISTRICTS**

Columbus County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, County Planning Department, Register of Deeds, Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.

- (3) **Limit of Liability --** In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith, either intentionally or by negligence, in connection with the duties or obligations imposed by this ordinance.
- (4) **No Cause of Action --** In no event shall any cause of action arise out of the failure of any person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this ordinance.

Section 1002. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which would convert land in a Voluntary Agricultural District to non-farm uses, the County or any other local unit of government shall submit to the Voluntary Agricultural District Board detailed information showing that said governmental unit has considered alternatives.

Section 1003. No Districts in Designated Growth Corridors

Voluntary Agricultural Districts will not be permitted in designated growth corridors as delineated on the official County planning map without the approval of the Board of Commissioners. **Upon request**, districts located in growth corridors designated after the effective date of this program may be allowed to remain. **Upon request**, districts located in growth corridors designated after the effective date of this program may be allowed to expand to include adjoining property purchased by a landowner presently participating in the Columbus County Voluntary Agricultural District Ordinance. **Any requests made under this Section, should be made through the Planning Board, 111 Washington Street, Whiteville, NC 28472.** The approval of the Board of Commissioners will be on a case by case basis.

**ARTICLE XI
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Voluntary Agricultural Districts within one-half (1/2) aerial mile of the proposed development.

**ARTICLE XII
PUBLIC HEARINGS**

- A. Purpose

Pursuant to N.C.G.S. §106-740, hereby attached and incorporated by reference in Exhibit A, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a Voluntary Agricultural District until such agency or unit has requested the Voluntary Agricultural District Board to hold a public hearing on the proposed condemnation.

B. Procedure

1. Upon receiving a request, the Voluntary Agricultural District Board shall publish notice describing the proposed action in the appropriate newspapers of Columbus County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) calendar days of receipt of the request.
2. The Voluntary Agricultural District Board shall meet to review:
 - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Voluntary Agricultural District Board shall consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Voluntary Agricultural District Board to be necessary for its review of the proposed action.
4. Within five (5) business days after the hearing, the Voluntary Agricultural District Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition. This report will be published describing the action in the appropriate newspapers of Columbus County.
5. There will be a period of ten (10) calendar days allowed for public comment on the report of the Voluntary Agricultural District Board.
6. After the ten (10) calendar day period for public comment has expired, the Voluntary Agricultural District Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition.
7. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition, shall not exceed thirty (30) calendar days. If the agency agrees to an extension, the agency and the Voluntary Agricultural District Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

8. Pursuant to N.C.G.S. §106-740, hereby attached and incorporated by reference in Exhibit A, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Voluntary Agricultural District Board.

ARTICLE XIII NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with N.C. Department of Agriculture and Consumer Services and Other Agencies

The Voluntary Agricultural District Board may consult with the Cooperative Extension Service Office, the USDA Natural Resources Conservation Service Office, the USDA Farm Service Agency Office, the N. C. Department of Agriculture and Consumer Services, and any other such agency the Voluntary Agricultural District Board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. On July 1 of each calendar year, the Voluntary Agricultural District Board shall submit a written report to the Commissioner of Agriculture, including the status, progress and activities of the County's Farmland Preservation program and Voluntary Agricultural Districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

ARTICLE XIV LEGAL PROVISIONS

Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments

- (1) Severability. If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) Conflict with other ordinances and statutes. Pursuant to relevant North Carolina law, whenever the provisions of this ordinance conflict with other ordinances of Columbus County, **the Board of Commissioners shall determine which ordinance shall govern.** Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.
- (3) Amendments. This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail thirty (30) calendar days prior to the hearing, and in consultation with the Voluntary Agricultural District Board to the Board of Commissioners.

**ARTICLE XV
ENACTMENT**

The Columbus County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 3rd day of November, 2008

James E. Prevatte
Columbus County Board of Commissioners
JAMES E. PREVATTE, Chairman

Attest: June B. Hall
Clerk to the Board
JUNE B. HALL

Approved as to form: Stan W. Feltner, County Attorney

